

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

AARON C. STEVENSON, et al.,

No. C-11-4950 MMC

Plaintiffs,

v.

THE CITY AND COUNTY OF SAN  
FRANCISCO, et al.,

Defendants.

**ORDER DENYING PLAINTIFFS' MOTION  
FOR TEMPORARY RESTRAINING  
ORDER; GRANTING IN PART AND  
DENYING IN PART MOTION FOR  
ISSUANCE OF ORDER TO SHOW  
CAUSE RE: PRELIMINARY INJUNCTION**

Before the Court is plaintiffs' "Motion for Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction," filed February 4, 2016. Having read and considered the motion, the Court rules as follows.


To the extent the motion seeks an order enjoining defendants from administering the H-50 Assistant Chief Examination currently scheduled for February 19, 2016, and February 20, 2016, the motion is hereby DENIED. There is no showing that such examination will have a disparate impact on African-Americans, nor could there be given the test results are not available, and any objection plaintiffs or anyone else may have once the results are announced can be challenged in the appropriate forum at that time. See Guardians Ass'n v. Civil Service Comm'n, 490 F.2d 400, 404 (2nd Cir. 1973) (affirming district court's denial of motion to preliminarily enjoin employer from administering new examination, where motion made in course of litigation challenging prior examination given

1 by same employer).

2 To the extent the motion seeks an order enjoining defendants from making any  
3 permanent appointment to the rank of H-50 Assistant Chief based on the results of the  
4 above-referenced examination scheduled to be given later this month, there is no showing  
5 that any permanent appointment based on such new examination is anticipated to be made  
6 in the near future.<sup>1</sup> Accordingly, the request for a temporary restraining order is hereby  
7 DENIED and the Court, by its Order to Show Cause filed concurrently herewith, has set a  
8 briefing schedule and hearing on the request for a preliminary injunction.

9 **IT IS SO ORDERED.**

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11 Dated: February 5, 2016

  
MAXINE M. CHESNEY  
United States District Judge

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27 <sup>1</sup>Indeed, as plaintiffs acknowledge, the first permanent appointments made based on  
28 the eligibility list created after the administration of last H-50 examination was made more  
than seven months after the date on which said examination was given. (See Pls.' Mot. for  
Temporary Restraining Order at 2:22-26.)